Petitioners

BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY

Case No. 88-476-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * *

The Petitioners herein request a variance to permit a height of 6 feet for a proposed fence in lieu of the maximum permitted 42" at a distance of 2 feet from the rear property line, as more particularly described on Petitioner's Exhibit 1.

The Petitioners, by Joseph P Hoffman, appeared and testified. The following persons appeared and testified as Protestants: Sharon E. Hippler, Rose Rodweller, and H. Joseph Erickhoff, Jr. Michael Hutchins appeared, not as a Protestant, but as an interested party.

Testimony indicated that the subject property, known as 27 Heather Hill Road, is a townhome in the community of Broadfield II. Mr. Hoffman testified he and his wife purchased the subject property in April 1987. In August 1987, they contracted with the Abbey Fence Company to construct a 6-foot high fence. Mr. Hoffman testified that Abbey Fence Company indicated they would be responsible for obtaining any required permits. Mr. Hoffman further testified that he and his wife decided upon a 6-foot high fence for the protection it would provide for their young children as well as the privacy it would afford them due to the fact that they intend to construct an in-ground swimming pool some day. Mr. Hoffman testified he first became aware that his fence was in violation of the zoning regulations when he received a notice from the Zoning Office in January 1988. He indicated that when he checked with Abbey Fence Company, he was told that they did not believe a permit would be necessary and therefore, had not

effort to correct the violation.

The Petitioner testified that to require strict compliance with the zoning regulations would result in an unreasonable hardship and practical difficul-

The Protestants testified that due to the location of the Petitioners' fence so close to the property line, they do not have proper access to the back of their yards, particularly when transporting lawn equipment from the front yard to the back yard. Ms. Hippler, the adjoining property owner is most adversely affected by the Petitioners' fence due to the fact that her front and side yard faces the Petitioners' back yard.

present that while they would prefer strict compliance with the zoning regulations, they would be satisfied if the Petitioners moved the fence back approximately 8 feet from the rear yard property line and keep the style of the fence

The Petitioners seek relief from Section 427(B), pursuant to Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.

regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area

> plicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

applied for one. The Petitioner subsequently filed the instant Petition in an

ty for him and his family.

After discussion among all participants, it was agreed by all parties

Nat the corner the same.

An area variance may be granted where strict application of the zoning variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;

> 2) whether the grant would do substantial injustice to ap-

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 88-476-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 427.(B) To allow a height of 6 feet for a fence located

2 feet from the rear property line in lieu of the permitted 3.5 feet height

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the

DATE SISTEM

1)Provide play-yard for our 2 children as well as a niece and a nephew, for

2)A fence of 42" would rule out the future use of our yard for a pool

3)Provide protection for outdoor furniture and equipment

following reasons: (indicate hardship or practical difficulty)

whom we are responsible

REVIEWED BY:

ty and welfare secured. Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

3) whether relief can be granted in such fashion that the

spirit of the ordinance will be observed and public safe-

It is clear from the testimony that if the variance was granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the variance was not granted. It has been established that the requirement from which the Petitioner seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Fetition held, and for the reasons given above, the requested variance should be granted as hereinafter modified.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this / day of May, 1988 that a height of 6 feet for a proposed fence in lieu of the maximum permitted 42" and a distance from the rear property line of 8 feet, in accordance with Petitioner's Exhibit 1, be approved, and as such, he Petition for Zoning Variance is hereby GRANTED, subject, however, to the Ifollowing restrictions:

> 1) The Petitioner may apply for his fence permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) The Petitioners shall have the fence moved back and placed a minimum of 8 feet from their rear yard property

3) The corner of the fence where the back yard meets the side yard on the street side shall be similar in style to the existing corner as depicted in Petitioner's Exhibit 1.

4) The Petitioners shall comply with all other County regulations, including, but not limited to, zoning regulations regarding the placement of the fence.

> M Newtown ANN M. NASTAROWICZ Deputy Zoning Commissione of Baltimore County

AMN:bjs

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY

Ton	wson, Maryland S8 - 476 -/
District 1st	Date of Posting $4-9-F8$
Posted for: Pariance	
Petitioner: Janph P Hoff	Sman et ux Heather Hill Road SE/Cor 27 Heather Hell Brad)
Location of property: 5 and side as	Huther Hill Royal SE/Cm
of Keen Villey Drive 1	27 Heather Hell Boad)
Location of Signs: Con frost of	# 27 Heather Hill Kord

Petitioner:

ZONING DESCRIPTION

Being known and designated as Lot No. 27 as shown on the plat entitled "amended plat of Section 3a, Broadfield at Wilton Farms", which plat is recorded among the land records of Baltimore County in Plat Book, E.H.K., Jr., No. 53, Folio 68. The improvements being known as 27 Heather Hill Road. Located in the 1st Election District, Baltimore County.

May 10, 1988

Mr. & Mrs. Joseph P. Hoffman 27 Heather Hill Road Baltimore, Maryland 21228

RE: Petition for Zoning Variance S/S Heather Hill Road, SE/corner Keen Valley Drive 1st Election District, 1st Councilmanic District Case No. 88-476-A

Dear Mr. & Mrs. Hoffman:

Enclosed please find the decision rendered on the above-referenced case. The Petition for Zoning Variance has been Granted subject to the restrictions noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours.

ANN M. NASTAROWICZ Deputy Zoning Commissioner

AidN:bis Enclosures

cc: Ms. Sharon E. Elppler 1 Keen Valley Drive, Baltimore, Md. 21228 Ms. Rose Rodweller Mg. H. Joseph Erickhoff, Jr. 9 Keen Valley Drive, Baltimore, Md. 21228 People's Counsel

of Baltimore County

7 Keen Tiley Drive, Baltimore, Md. 21228

Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this S-11,322 petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County. I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser: Legal Owner(s): Joseph P. Hof man (Type or Print Name) (Type of Print Name) Signature Patricia A. Hoffman (Type or Print Name) Attorney for Petitioner: 27 Heather Hill Rd. 301-247-9542 (Type or Print Name) Teltimore, Md. 21228 Name, address and phone number of legal owner, contract purchaser or representative to be contacted Joseph/Patricia Hoffman City and State Name 27 Heather Hill Rd. Baltimore, Md 21228 ORDERED By The Zoning Commissioner of Baltimore County, this of MARCH, 1988, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore th day of APRIL, 1988, at 9 o'clock ESTIMATED LENGTH OF HEARING (-1/2HR.) AVAILABLE FOR HEARING MON./TUES./WED. - NEXT TWO MONTHS Zoning Commissioner of Baltimore County.

"DUPLICATE" CERTIFICATE OF PUBLICATION

TOWSON, MD., Open 14 The Zoning Commissioner of Bal-timore County, by authority of the Zoning Act and Regulations of Bahi-more County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows: THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on Petition for Zoning Variance Case number: 88-476-A = SS Heather Hill Road, SEC Keen Valley Drive (27 Heather Hil 1st Election District man, et ux Hearing Date: Friday, April 29 1988 at 9:00 a.m.

THE JEFFERSONIAN,

Gusan Sender Obrecht

\$33.75

said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hear-

Variance to allow a height of 6 feet for a fence located 2 feet from the

rear property line in lieu of the per-mitted 3.5 feet height. In the event that this Petition is

granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said nermit during this

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this day of March

Petitioner Joseph P. Foffman, et ux Received by: James E. Dyer Chairman, Zoning Plans

Attorney

Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINA - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE 3-4-98 ACCOUNT R-01-615-AMOUNT \$ 3 TE RECEIVED TOSOLA HOFF

FOR Zerise For tal I Vinne Files For 8 020*****3500:a 0040F

VALIDATION OR SIGNATURE OF CASHIER

BALTIMORE COUNTY, MARYLAND OFFICE OF FINA . REVENUE DIVISION MISCELLANEOUS CASH RECEIPT

01 1.15.000 Cale # 88-476-A Ody + Postora Free

> B BUDS*****7050:a 2281F VALIDATION OR SIGNATURE OF CASHIER

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204

J. Robert Haines
Zoning Commissioner

4-18-88

Dennis F. Rasmussen County Executive

Mr. & Mrs. Joseph P. Hoffman 27 Heather Hill Road

Beltimore, Maryland 21228

Dear Mr. & Mrs. Hoffmans

Petition for Zoning Variance CASE NUMBERS 88-478-A SS Heather Hill Road, SEC Keen Valley Drive (27 Heather Hill Road) 1st Election District - 1st Councilmenic District

Petitioner(s): Joseph P. Hoffman, at un

HEARING SCHEDULED: FRIDAY, APRIL 29, 1988 at 9:00 a.m.

Please be advised that \$70.55 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not

Very truly yours,

Robert Haines J. ROBERT HAINES Zoning Commissioner of

Baltimore County

JRH:gs cc: file

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 494 3353

J. Robert Haines

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 88-478-A SS Heather Hill Road, SEC Keen Valley Drive (27 Heather Hill Road) 1st Election District - 1st Councilmanic District Petitioner(s): Joseph P. Hoffman, et ux HEARING SCHEDULED: FRIDAY, APRIL 29, 1988 at 9:00 a.m.

Variance to allow a height of 6 feet for a fence located 2 feet from the rear property line in lieu of the permitted 3.5 feet height.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County

cc: Fir. & Mrs. Hoffman Sharon Hippler BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 22, 1988

COUNTY OFFICE BLDG. 111 W. Chesapeake Ave. Towson, Maryland 21204

Engineering

Bureau of Fire Prevention

Health Department

Project Planning

Building Department

Board of Education

Industrial

Development '

Zoning Administration

Mr. Joseph P. Hoffman, et ux 27 Heather Hill Road Baltimore, Maryland 21228

> RE: Item No. 323 - Case No. 88-476-A Petitioner: Joseph P. Hoffman, et ux Petition for Zoning Variance

Dear Mr. Hoffman:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Janes E. Dyellat Zoning Plans Advisory Committee

Enclosures

JED:dt

Baltimore County Fire Department Towson, Maryland 21204-2586 494-4500

Paul H. Reincke March 11, 1988

J. Robert Haines Zoning Commissioner Office of P'anning and Zoning Baltimore County Office Building Towson, MD 21204

Dennis F. Rasmussen

Re: Property Owner: Joseph P. Hoffman, et ux

Location: SS Heather Hill Rd., SE/C Keen Valley DR.

Zoning Agenda: Meeting of 3/15/88 Item No.: 323

Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property. () 1. Fire hydrants for the referenced property are required and shall be located at intervals or ____ feet along an approved road in accordance with Baltimore County Standards as published by the Department

Pursuant to your request, the referenced property has been surveyed by this

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at ____

of Public Works.

EXCEEDS the maximum allowed by the Fire Department. () 4. The site shall be made to comply with all applicable parts of the

Fire Prevention Code prior to occupancy or beginning of operation. () 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition

() 6. Site plans are approved, as drawn.

prior to occupancy.

(x) 7. The Fire Prevention Bureau has no comments at this time

Planting Group
Special Inspection Division

Fire Prevention Bureau

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines TO Zoning Commissioner

P. David Fields

FROM Director of Planning and Zoning Zoning Petition Nos. 88-465-SpHA, 88-466-SpH, 88-468-SpHXA, 88-470-A, SUBJECT_88-472-A, 88-473-A, 88-475-A, 88-476-A

There are no comprehensive planning factors requiring comment on this petition.

April 13, 1988

PDF:JCH:dme

cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel

APR 15 1988 ZONING OFFICE

BATIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE James Dyer Zoning Supervisor James Thompson FROM Zoning Enforcement Coordinator Item No.: 323 (if known)
SUBJECT Petitioner: 1M: How (if VIOLATION CASE # 88-1/26 LOCATION OF VIOLATION 27 Heatherfull Count Please be advised that the aforementioned petition is the subject of an active violation case. When the petition is scheduled for a public hearing, please notify the following persons: After the public hearing is held, please send a copy of the Zoning Commissioner's Order to the Zoning Enforcement Coordinator, so that the appropriate action may be taken relative to the violation case.

EXILTINE 27'\$ Fence distances to DMSIFWF LOT#35 property line 4+++1 THE INS'ENEMENT PARK VICINITY MAP R=440.0' HEATHER HILL ROAD PLAT FOR ZONING VARIANCE OWNER - JOSEPH & PATRICIA HOFEMAN LOT SIZE; APPROX SZOO SOFT PISTRICT . 1 ZONED DR-10.5 SUBDIVISION BROADFIELD AT WILTON FARMS

LOT 27, SEC 3A, BOOK NO-53 FOLIO 68
Public utilities in Heather Hill Rd.

SCALE: 1"=30"

/j1